

**Minutes**  
**Air Pollution Control Board**  
Indiana Government Center South  
Conference Room C  
402 West Washington Street  
Indianapolis, Indiana

**August 1, 2001**  
1:00 p.m.

1. Mr. John Walker, Chairman, called the meeting to order. He noted that a quorum was present.

**CALL TO ORDER**  
**QUORUM**

2. Chairman Walker introduced the board members.

**INTRODUCTION OF**  
**MEMBERS**

**Present:** Mr. John Walker, Chairman  
Mr. Marlow Harmon  
Mr. Thomas Anderson  
Mr. Chris Horn  
Dr. James Miner  
Dr. Phil Stevens  
Mr. David Benshoof  
Mr. John Bacone, Proxy, Department of Natural Resources (left early)  
Ms. Melanie Solmos, Proxy, Lieutenant Governor

Also present were Mr. Timothy Method, Deputy Commissioner; Ms. Janet McCabe, Assistant Commissioner; and Ms. Kathy Watson, Branch Chief. Others are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Mr. Method reported that the Environmental Quality Service Council will meet on August 7, 2001 to review how IDEM manages its permits and other programs. One item on the agenda is a discussion of the issues that the EQSC will focus on this coming year. IDEM will do a presentation before the EQSC the following week on the NOx rule.

**REPORTS**

Ms. McCabe reported on the status of rules that EPA has approved and rules that are in the process of being approved. Source-specific provisions that they have recently approved or are about to approve include rule changes that the board voted on for: Cerestar, Illinois Cereal, Rolls Royce, and Johns-Manville. EPA has proposed full approval of the Title V program and rules related to ozone. On June 22, 2001 EPA proposed to re-designate Clark and Floyd Counties and the entire Louisville area to attainment of the one-hour ozone standard; the air quality in that area now meets the ozone standard. On August 3, 2001, EPA will publish a proposal to approve the ozone attainment plan for Lake and Porter Counties. They've already published proposed approvals for the Chicago area and Milwaukee area; this will complete the entire Chicago and Northern Indiana metropolitan area. EPA proposed to approve the NOx rule that the board approved in June. Their plan is to finalize the Lake/Porter approval and the NOx approval by the end of September.

Ms. Wendy Hoffspiegel, Legislative Coordinator for IDEM, reported to the board on the legislative session and distributed three handouts, including a 2001 Legislative Summary, a summary of 2001 legislation that effects the air pollution control board, and a printout of the legislative web page.

4. Chairman Walker introduced the April 12, 2001 Air Pollution Control Board minutes. **MINUTES**

Mr. Horn moved to adopt the April 12, 2001 Air Pollution Control Boards' Minutes. Mr. Anderson seconded. The motion passed unanimously.

Chairman Walker introduced the June 6, 2001 Air Pollution Control Board Minutes.

Mr. Stevens moved to adopt the June 6, 2001 Air Pollution Control Boards' Minutes. Mr. Harmon seconded. The motion passed unanimously.

5. Chairman Walker introduced Exhibit 1, the draft rule, into the record regarding preliminary adoption of new rules 326 IAC 1-1-3.5, References to the Compilation of Air Pollution Emission Factors AP-42 and Supplements, and 326 IAC 1-2-20.5, Compilation of Air Pollution Emission Factors AP-42" Definitions; Amendments to rules 326 IAC 1-1-3, concerning Annual Update (2000) to the Code of Federal Regulations (CFR); and Amendment of rules throughout Title 326 that incorporate by reference the Federal Register to change the FR citation to its corresponding CFR citation as published in the July 1, 2000 edition of the CFR.

Ms. Watson stated that this is an annual update of the references to the Code of Federal Regulations. This is done every year in order to ensure that state rules that incorporate by reference federal rules remain current with the federal rule amendments. The rule also updates Federal Register references to their CFR citation. Also, a new rule has been added that includes a reference to AP-42, the compilation of federal emissions factors. AP-42 is referenced throughout Title 326 for compliance and monitoring purposes.

Mr. Anderson moved to preliminary adopt new rules 326 IAC 1-1-3.5 referenced to the Compilation of Air Pollution Emission Factors AP-42 and Supplements, and 326 IAC 1-2-20.5 Compilation of Air Pollution Emission Factors AP-42, Definitions, Amendments to rules 326 IAC 1-1-3 concerning Annual Update (2000) to the Code of Federal Regulations, and amendments to rules throughout Title 326 that incorporate by reference the Federal Register to change the FR citation to its corresponding CFR citation as published in the July 1, 2000 edition of the CFR. Dr. Miner seconded. The motion was unanimously.

**PUBLIC HEARING FOR  
PRELIMINARY  
ADOPTION OF NEW  
RULES 326 IAC 1-1-3.5,**

References to the  
Compilation of Air Pollution  
Emission Factors AP-42  
and Supplements, and **326  
IAC 1-2-20.5** Compilation  
of Air Pollution Emission  
Factors AP - 42"

Definitions;

**AMENDMENTS TO  
RULES 326 IAC 1-1-3,**  
Concerning Annual Update  
(2000) to the Code of  
Federal Regulations (CFR);  
and **AMENDMENTS TO  
RULES IN TITLE 326**

that incorporate by  
reference the Federal  
Register to Change the FR  
citation to its corresponding  
CFR citation as published in  
the July 1, 2000 Edition of  
the CFR

6. Chairman Walker introduced Exhibit 2A, the rule as preliminarily adopted, and Exhibit 2B, the rule as preliminarily adopted and proposed for final adoption with suggested changes, into the record of the hearing.

**PUBLIC HEARING  
FOR FINAL ADOPTION  
OF AMENDMENTS TO  
RULE 326 IAC 6-3,  
Process Weights**

Ms. Watson stated that the process weight rate rule has been part of state law since the late 1960's. It is also part of the state implementation plan. This rule controls particulate matter in manufacturing and other processes across the state. It contains a table that sets forth the emission limits based on the amount of material processed. IDEM began this rulemaking to clarify that processes with a process weight below 100 pounds per hour are subject to this rule. The rule was opened in January, 2000. A public meeting was held in June, 2000. Suggestions for changes include exempting certain processes from the rule and for other processes to replace the table with work practice standards. Some industry sources argued that the entire list of insignificant activities in the Title V rule should be exempt from the process weight rate rule. Ms. Watson explained that the Title V list of insignificant activities was developed to identify those activities at Title V sources for which detailed emissions information would not be required in applying for a Title V permit. The list was not developed to exempt all such activities from every emission limit. The rule that was preliminarily adopted by the board on April 12, 2001 excluded insignificant activities that do not emit particulate matter and included those that have or may have particulate matter emissions. The rule exempted any processes that had potential emissions less than approximately half a pound per hour, that is the .551-pound-per-hour limit; this was the de minimus level that was set in the preliminarily adopted rule. Ms. Watson proposed the following additional changes to the rule: excluding certain welding and torch cutting activities that are below specified de minimus levels; excluding non-contact cooling tower systems that use treated water; excluding gaseous emissions of SO<sub>2</sub>, and gaseous emissions of hazardous air pollutants; flue gas conditioning systems using ammonia; revising the surface coating, reinforced plastics, and graphic arts operations work practice standard concerning visible emissions and accumulation on the ground.

Mr. Mark Strimbu, representing the Indiana Electric Utility Air Work Group, submitted handouts and made four comments: First, IDEM should add a provision to exempt fugitive dust sources from the process weight rule because fugitive dust sources are regulated by another rule, 326 IAC 6-4, the fugitive dust rule. Second, he expressed concern that there should be a reasonably simplified way to demonstrate compliance, especially annual compliance certification for Title V sources, for the emission limitations on many processes integral to many industries in Indiana. These processes include many that are categorized as insignificant for purposes of Title V permitting that IDEM has included in the process weight rate rule. Mr. Strimbu requested that IDEM include a provision to allow sources to submit alternative performance standards that would be presumed to be compliant with the rule. Third, he expressed concern with the inclusion of the water-based activities listed in 326 IAC 6-3-1 (b)(8)(F), as included

from 326 IAC 2-7-1 (21)(G)(1X), as a very recent change to the rule. He noted that the water based activities included in the process weight rule are not noted for being large generators of particulate matter emissions. He also noted that there is no definition of “treated water” in the rule. Fourth, he recommended that the board delay adoption of the rule and instruct IDEM to work with the regulated community to justify the inclusion of the source categories proposed for inclusion in this rule based on a realistic assessment of their particulate matter emissions developed in consultation with the affected parties.

Mr. Strimbu, on behalf of NiSource, supported his previous comments on behalf of the Indiana Electric Utility Air Work Group and expressed the following additional concerns: First, the process weight rate rule as adopted in 1968 as APC-5 was never intended to apply to many of the types of sources now considered for inclusion in 326 IAC 6-3-1(b)(8). He recommended that IDEM redefine the term “process” at 326 IAC 1-2-58 to more narrowly and clearly specify what a process is. Second, compliance is an important concern. The quantification of emissions for compliance certification may be very difficult. For very small emitting activities that are not exempt from the rule, IDEM should provide a simplified way to demonstrate compliance with the rule instead of reliance on the table or the formula. Mr. Strimbu suggested as an alternative method to demonstrate compliance that the source should be allowed to perform dispersion modeling to demonstrate that an alternative emission limit meets the PM<sub>10</sub> national ambient air quality standard. His final recommendation was that the board not adopt the rule, but instead instruct IDEM to re-evaluate its intent and methods and resubmit a more workable and reasonable rule for adoption at a later date after working with the regulated community on its development.

Mr. James Hauck, speaking on behalf of Monaco Coach Corporation, delivered comments prepared by Mr. Kurt Anderson. He described the process weight rule as a good rule that now serves many applications beyond its original intent. He requested that technology standards be developed versus the current performance standards found in the rule. IDEM staff worked with members of the regulated community to develop technology-based standards for some common processes. This approach will greatly simplify compliance and achieve similar or better emissions reductions. He also requested that paint preparation operations be included in the technology-based standards. Mr. Hauck asked for confirmation for the record that the paint preparation operations that used handheld equipment consistent with what is listed in 326 IAC 2-70-1(40)(f) is exempt in the rule before the board. He commented on the proposed language “or accumulated on the ground” and stated that Monaco Coach disagreed that accumulation of emissions on the ground reflects excessive emissions or any violation of the particulate emission limits but did agree with the redrafted provision so that an accumulation of emissions on the ground triggers work practice requirements but is not a violation. Monaco Coach supports the technology-based standards written into the rule for welding and torch cutting activities. Monaco Coach believes that the de minimus limits established for these operations would effectively control the minor particulate source activities

and simplify compliance monitoring and record-keeping requirements. As for the rule as a whole, Monaco Coach's primary issue with the rule as proposed is that significant compliance burdens will put on industries with no commensurate environmental benefit. Reasonable work practices or de minimus levels need to be established for minor processes that minimize the compliance requirements and record-keeping burdens.

Mr. Bryan Tabler, representing the Indiana Steel Environmental Group, whose members include Bethlehem Steel, Inland/Ispat Steel, LTV Steel, National and U.S. Steel and endorsed the comments of NiSource and Monaco Coach. Mr. Tabler stated that the Indiana steel companies firmly believe that any rule must meet the following premises: rules must have a clear purpose; rules must be clear about what is regulated, who is regulated and what one must do to comply; rules must be clear and concise to eliminate legal challenges and misinterpretations; and rules must undergo a cost/benefit analysis. Mr. Tabler asked that these criteria be applied to the process weight rule before it is considered for final adoption. Mr. Tabler expressed the following concerns with respect to the rule: it has no clear purpose; the rule now appears to apply to activities as diverse as solvent usage, welding, bridge building, wastewater treatment systems, cooling towers conveyors, and farming; the rule is now so expansive that it could lead to arbitrary enforcement and significant legal challenges; no economic analysis has been performed as required by statute; the rule is not mandated by federal law and is not needed to ensure the integrity of the state's air pollution control program. Mr. Tabler urged the board not to finally adopt the rule but to instruct IDEM to cause the rule to be removed from the books, or alternatively, to exempt all the insignificant activities listed in the Title V rule.

Mr. Method explained that the department's interpretation of the existing rule is that all activities that are not otherwise subject to specific particulate mass limits are covered by this rule. He explained that the department had asked for very specific suggestions on alternative work practices. Ms. Solmos asked how long these rules had been on the books. Mr. Method replied "since 1968". Ms. Solmos asked if industry at this time must report these emissions. Ms. McCabe replied that since the early 1990's industry has had to do an annual emission statement where industry covers all their emissions. Mr. Benshoof asked for clarification about the comment that a several hundred acre steel plant and the area inside the fence is not ambient air. Ms. McCabe replied that it is ambient air; it is inside the plant and that the process weight rate rule would apply inside the plant.

Mr. Tom Rarick, commented on behalf of GE Industrial Systems and GE Appliances, subsidiaries of General Electric Company, submitted handouts to the board and expressed concerns with the surface coating work practice standards at 326 IAC 6-3-2(d). He stated that GE has a fundamental concern about the basis for and the process followed in establishing a work practice standard versus an emission limitation for surface coating operations. GE believes that there are significant adverse side-effects from the approach outlined in the proposed surface coating rule, such as: the proposed rule divorces surface coating particulate

emissions from the process weight rate emissions limit standard the proposed rule imposes a filter control device requirement even if a company could demonstrate that it is in full compliance with the process weight rates emissions limits; the proposed rule proposes a strict liability operational requirement. Mr. Rarick stated that the proposed surface coating rule is outside the declared intentions of the rule change. He expressed concern about the over-spray provisions that have added a new requirement that did not previously apply particularly as it relates to surface coating operations that could demonstrate compliance with the process weight rate emission limit. Mr. Rarick stated that because of the nature of the proposed surface coating that the revised process weight rate rule should not be adopted until there has been a thorough discussion of all the issues that underlie, and arise from the proposed changes such as the nature of the existing air quality, and the economic reasonableness of measuring or reducing any particular type of pollution. Mr. Rarick said that he would welcome an opportunity to explore with IDEM its concerns and recommended appropriate solutions to applying the process weight emission limitations to surface coating. Mr. Rarick recommended that the board table the proposed process weight rule for 30 days to allow IDEM and interested parties to negotiate a surface coating rules that takes into account the appropriate process weight emissions limitations.

Mr. Bacone asked if surface coating industries that must get other types of permits are exempt from the process weight rate rule. Ms. McCabe replied that they are not completely exempt from this rule.

Mr. Vincent Griffin, Director of Environmental and Energy Policy, Chamber of Commerce, commented on the rule by stating that there is much confusion with respect to the rule. Mr. Griffin believes the application of the process weight rate rule to insignificant activities would require extensive and unnecessary monitoring, record keeping and reporting with little, if any, environmental benefit. Mr. Griffin commented on the “accumulation on the ground” standard. Mr. Griffin asked the board to table the rule.

Patrick Bennett, Indiana Manufacturers Association, suggested a delay on the adoption of the rule so that others could become familiar with changes that were made within the previous two days in the rule.

Mr. Benshoof asked if the process weight rate rule was still subject to the sunset provisions. Ms. McCabe replied that after the April board meeting a law was passed that exempted this rule from the sunset process.

Ms. McCabe summarized the rulemaking process as it pertained to the process weight rate amendments. Board discussion ensued. (See transcript p. 83 - 92)

Mr. Benshoof moved to continue the hearing and reopen it at the October board meeting. Mr. Harmon seconded. The motion was unanimous.

7. Chairman Walker introduced Exhibit 3, the rule as preliminarily adopted and proposed for final adoption, 326 IAC 6-4, fugitive dust, into the record of the hearing.

**PUBLIC HEARING  
FOR FINAL  
READOPTION OF  
RULE 326 IAC 6-4,**

Ms. McCabe stated that the original fugitive dust rule was preliminarily adopted without changes at the April 12, 2001 meeting. Some significant changes to the rule were proposed by the department. A number of concerns were raised by affected industries, at the April board meeting the board decided to go ahead and propose the original rule without any changes. Following the first board meeting a meeting with the public had been held to discuss the specifics for the rule and to see if any minor changes could be agreed upon prior to bringing the rule for final adoption. As a result of those discussions, it was concluded that it would be best to readopt the rule as it currently exists. Ms. McCabe asked the board to final adopt the rule as presented with no changes.

Mr. Strimbu, representing NiSource, Inc., distributed handouts to the board and stated their support of IDEM's plan to re-adopt the current fugitive dust rule without any changes and urged the board to final adopt the rule.

Mr. Blake Jeffery, Indiana Cast Metal Association, asked the board to move forward and to final adopt the rule.

Mr. Vincent Griffin, Chamber of Commerce, endorsed the comments made by Mr. Blake Jeffery to final adopt the fugitive dust rule.

Mr. Patrick Bennett, Indiana Manufacturers Association, stated support for final adoption of the rule.

Mr. Bacone moved to final adopt rule 326 IAC 6-4. Dr. Miner seconded. The motion carried 9-0.



8. Chairman Walker introduced Exhibit 4A, the rule as final adopted on January 3, 2001, and Exhibit 4B, the rule as recalled and proposed for readoption with suggested changes, into the record of the hearing.

Ms. Nancy King, Legal Counsel, explained the recall and readoption process versus the normal rulemaking process. Ms. King explained that the rule was forwarded to the Attorney General's office where the attorney reviewing the rule questioned language in the rule as it existed before amendment by the board. The language in question was a future incorporation which is not permitted by state law. The rule was recalled to correct that language. Ms. King stated that no hearing was required prior to readoption of this rule.

Dr. Miner moved to final adopt the rule as amended. Mr. Anderson seconded. The motion carried 9-0.

9. The next meeting was tentatively scheduled for Wednesday, September 5, 2001, at 6:30 p.m, University Inn Conference Center and Suites, 3001 Northwestern Avenue, Salon B, West Lafayette, Indiana.

10. Chairman Walker adjourned the meeting at 3:30 p.m.

**PUBLIC HEARING  
FOR FINAL  
READOPTON OF  
AMENDMENTS TO  
RULE 326 IAC 6-1,  
Natural Gas  
Combustion Sources,  
Originally final adopted  
in January of 2001.  
There will not be a  
hearing prior to this  
board action pursuant  
to IC 4- 22-2-40.**

**NEXT MEETING**

**ADJOURNMENT**

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John Walker, Chairman

*These minutes were taken from the August 1, 2001 transcript, and were written on September 17, 2001, by Karol T. Chuma, Office of Air Quality.*